

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

BRANDON J. IVEY,

Plaintiff,

v.

COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

Case No. 3:22-CV-05430-RSM

ORDER FOR AWARD OF ATTORNEY
FEES PURSUANT TO 28 U.S.C. § 2412

THIS MATTER comes before the Court on Plaintiff's Motion for Attorney Fees pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412. Dkt. #19.

The Motion is timely as Plaintiff had a 60-day appeal period, plus the 30-day period in §2412(d)(1)(B), from the entry of final judgment on July 3, 2023, to file a timely EAJA application. *Akopyan v. Barnhart*, 296 F.3d 852 (9th Cir. 2002); *Melkonyan v. Sullivan*, 501 U.S. 89, 94-96 (1991); FED. R. App. P. 4(a); Dkt. #18. Upon review of the Motion and the record, the Court determines that Plaintiff is the prevailing party, the government's position was not substantially justified, and that the itemization of attorney time spent is reasonable. In short, the requirements of § 2412(d)(1)(B) are met.

1 Furthermore, Defendant has failed to respond to the Motion. Under Local Civil Rule
2 7(b)(2), “[e]xcept for motions for summary judgment, if a party fails to file papers in opposition
3 to a motion, such failure may be considered by the court as an admission that the motion has
4 merit.” The Court deems Defendant’s failure to respond to be such an admission in this case.

5 Having thoroughly considered the Plaintiff’s briefing and the relevant record, the Court
6 hereby GRANTS the Motion and awards Plaintiff \$6,786.09 in attorney’s fees, subject to any
7 offset allowed under the Treasury Offset Program. *See. Astrue v. Ratiff*, 560 U.S. 586, 589 – 590
8 (2010). If EAJA fees are not subject to any offset, payment of this award shall be made via EFT
9 or check to Attorney David Oliver’s address: David Oliver & Associates, 2608 South 47th Street,
10 Suite C, Tacoma, WA 98409.
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13 For the foregoing reasons, Plaintiff’s Motion for Attorney Fees is GRANTED.

14 DATED this 5th day of January, 2024.

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17 RICARDO S. MARTINEZ
18 UNITED STATES DISTRICT JUDGE
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